

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

TONIA VERRET, et al.,

Plaintiffs,

v.

Civ. No. 17-913 CG/GJF

CITY OF HOBBS, et al.,

Defendants.

**ORDER GRANTING MOTION TO APPOINT
GUARDIAN AD LITEM FOR PLAINTIFFS AV, MV, WV, AND JV**

THIS MATTER is before the Court on the parties' "Joint Motion for Appointment of United States Magistrate Judge Gregory J. Fouratt for Order Appointing Guardian Ad Litem and for Review of and Order Approving Settlement" ("Motion") [ECF No. 74]. The Motion asks the Court to appoint a Guardian ad Litem to represent the best interests of the minor plaintiffs [AV, MV, WV, and JV] in the context of reviewing the fairness of the settlement reached between the parties. The presiding judge in this case has referred the Motion to the undersigned to hear and determine pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and Fed. R. Civ. P. 72(a). *See* ECF No. 76. Having considered the Motion, reviewed the record, and being otherwise fully advised, the Court FINDS:

1. It is within the discretion of the District Court to appoint a Guardian ad Litem for a person who is or may not otherwise be able to protect his or her own interests. Pursuant to Fed. R. Civ. P. 17(c)(2), "[t]he Court must appoint a guardian ad litem – or issue another appropriate order – to protect a minor or incompetent person who is unrepresented in an action."

2. At the time the First Amended Complaint was filed, A.V., M.V., W.V., and J.V., were minors and therefore their claims were brought by and through their mother and next friend, Tonia Verret. All four are still minors.
 - a. A.V. is currently sixteen years old. Her date of birth is February 1, 2002.
 - b. M.V. is currently thirteen years old. Her date of birth is December 12, 2004.
 - c. W.V. is currently nine years old. His date of birth is August 6, 2009.
 - d. J.V. is currently five years old. His date of birth is October 28, 2013.
3. A settlement agreement has been achieved between all Plaintiffs and all Defendants which would resolve all of the claims in this case.
4. Court approval of this confidential settlement is sought, and a Guardian Ad Litem is requested to assist the Court in this matter.
5. The Guardian Ad Litem should be appointed to investigate on behalf of the Court the fairness and reasonableness of this confidential settlement and its effect upon the minor child.
6. The Guardian Ad Litem shall serve as an “arm of the Court.” Under this appointment, the Guardian Ad Litem’s duties are owed to the Court, and not to any party.
7. The Guardian Ad Litem shall have access to all medical and other records of the children which are relevant to the issues in this case.
8. Feliz A. Rael, Esq. is qualified to perform as Guardian Ad Litem, and has agreed to serve as Guardian Ad Litem in this case.
9. There are strong public policy reasons to grant immunity to the Guardian Ad Litem who in this case is acting as an “arm of the court” and is performing an essential role in this Court’s administration of justice, as the Judge’s assistant. All immunities and privileges available

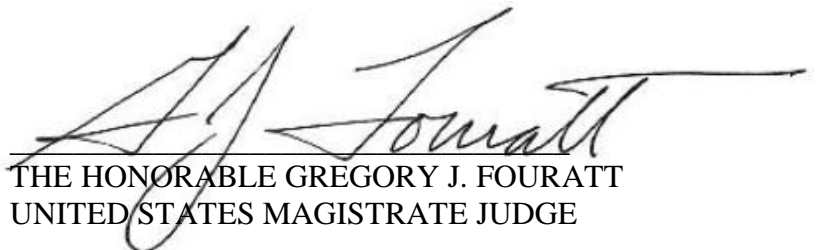
to the Guardian Ad Litem, as articulated by the New Mexico Supreme Court in *Collins v. Tabet*, 111 N.M. 391, 806 P.2d 40 (1991) shall be extended to the Guardian Ad Litem in this matter, and as such Guardian Ad Litem Feliz A. Rael shall be absolutely immune from any liability for her actions taken pursuant to this appointment, insofar as her conduct in the case is a result of an investigation on behalf of this Court into the fairness and reasonableness of the proposed confidential settlement and its effect on the minor children. The Guardian Ad Litem's duties and obligations in this matter are owed to the Court and not to the minor children.

10. Feliz A. Rael's role as Guardian Ad Litem will end once a final order of Court approval for the confidential settlement of the minor children is entered.

11. Feliz A. Rael has reviewed the settlement agreement as Guardian Ad Litem and her report was filed under seal with the Court on November 20, 2018 [ECF No. 73].

IT IS THEREFORE ORDERED that the Motion is **GRANTED**. Accordingly, Feliz Rael, Esq., is appointed as Guardian ad Litem for all minor Plaintiffs. To answer any additional questions from the Court or otherwise to provide information supplemental to her report, Ms. Rael shall appear telephonically at the fairness hearing scheduled for **10:00 a.m. on December 11, 2018**.

IT IS SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE